

**From:** Lindy Farrar/DC/USEPA/US  
**Sent:** 10/3/2012 8:30:09 AM

**To:** Andra Belknap; James O'Hara; Victoria Rivas-Vazquez; Alisha Johnson; Robert Delp; Michael Moats; Stephanie Epner; David Bloomgren; Kayla Marsh  
**CC:**  
**Subject:** Morning Clips

Good Morning- here are today's top stories.

**Greenwire:** EPA: Republican bill would overhaul Science Advisory Board  
**EnergyWire:** WATER: Emails show EPA scaled back probe in Dimock, Pa  
**Greenwire:** CLIMATE: Some see a resurgence looming for global warming issues in U.S. politics

## **EPA: Republican bill would overhaul Science Advisory Board**

Greenwire  
Tuesday, October 02, 2012

The legislation, from committee Chairman Ralph Hall (R-Texas), seeks to make significant reforms to EPA's Science Advisory Board, or SAB, and its subpanels. Hall, who introduced the bill at the end of last week, said his H.R. 6564 is necessary to improve public participation and improve how advisers are selected.

"The need for high quality, independent scientific advice from the Science Advisory Board has never been more important," Hall said in a statement, adding criticism of policies adopted by President Obama's EPA.

"This bill contains basic, common sense reforms to deal with legitimate concerns about balance, impartiality, independence, and public participation," he said.

The board, which was established in 1978, provides influential feedback and advice to EPA on a wide range of issues. Most notably, it makes recommendations about where EPA should set air standards for pollutants like ozone and particulate matter.

It has come under fire from industry and Republicans, however, for various methodology issues. For example, Hall claimed that private-sector experience is often excluded from panels and said there is often an inappropriate relationship between researchers who receive grant funding from EPA, then review their resulting research as part of their duties on the board.

Republicans have also said the advisers are often biased and have "strong policy preferences," according to Hall.

Hall's bill would increase public comment opportunities and strengthen peer review requirements, seeking to address conflicts of interest among the board members. It would also require communication of uncertainties surrounding scientific findings and conclusions.

The legislation has earned cheers from some in industry. The American Chemistry Council said it "cannot overstate the importance of this bill."

"Not only would this bill lead to improvements in how panels are formed, but it would also hold peer review panels accountable in responding to public comment, ensuring that legitimate scientific concerns are transparently addressed," ACC said in a statement.

Hall's bill is co-sponsored by Republicans Andy Harris of Maryland, Dana Rohrabacher of California and Dan Benishek of Michigan, all members of the Science Committee.

## **WATER: Emails show EPA scaled back probe in Dimock, Pa**

EnergyWire

Tuesday, October 02, 2012

Samples collected during a recent federal investigation in the village -- made famous by the documentary "Gasland" -- indicate that the town still has methane in its drinking water.

U.S. EPA ended the investigation in July, but it has publicized very little of the information it gathered during six months of sampling and testing in Dimock. In official statements, the agency said it only wanted to find out whether Dimock's water is safe to drink and found that in most cases it is or can be treated to achieve proper quality.

But emails reviewed by newspapers owned by Times-Shamrock Communications Inc. and sampling results posted online show EPA dropped one of its early interests in the investigation: identifying the cause of continued high methane levels in water wells and finding options for resolving the problem. Although methane is not considered toxic in drinking water, it poses explosion risks if it escapes from water and is trapped in a confined space. EPA first got involved in the investigation after the Pennsylvania Department of Environmental Protection (DEP) began to probe the issue following a gas explosion in a water well that shattered its concrete cover.

Cabot Oil and Gas Corp., the company found responsible for the contamination, had to show that methane has stopped migrating from its wells or that methane in the aquifer has returned to baseline levels in order to restart drilling in a 9-square-mile patch of Dimock.

In late August, DEP found that seven Cabot wells that had never been hydraulically fractured -- the extraction method used by drillers that entails shooting water, sand and chemicals into shale rock fractures to release trapped oil and gas -- had not contributed to the methane problem. The agency allowed the company to produce gas from those wells (EnergyWire, Aug. 22).

Federal investigators arrived in Dimock in January to test for methane and found it at levels higher than baseline conditions measured in other parts of Pennsylvania.

EPA posted its results online but did not attempt to interpret the data because it is "complex and beyond the scope of the efforts in Dimock," agency spokeswoman Terri White wrote in an email. Instead, the results were sent to an EPA office that is studying the effects of fracturing on drinking water nationally.

Two months before EPA announced its plans to test Dimock's water, a pair of agency officials wrote to Scott Perry, Pennsylvania's head oil and gas regulator, to raise concerns that elevated contaminant levels might be related to Cabot operations.

The emails, obtained by Times-Shamrock newspapers through a Freedom of Information Act request, show plans for a much broader federal probe than the one EPA conducted. In the end, the agency scaled back its investigation, including its effort to determine the source of the methane, White said. EPA's goal "was to provide the Dimock community with reliable information about the presence of contaminants in their drinking water and determine whether further action by EPA was warranted to protect public health," she said.

Robert Jackson, an environmental scientist at Duke University who has reviewed the EPA data, said the "simplest explanation" for the methane EPA found is that the gas originated in deep rocks, much like the gas-rich Marcellus Shale located beneath Pennsylvania's drill sites.

"I don't think there's a natural pathway for this," he said. "There are people who say there is nothing going on in Dimock, and I think that's wrong, based on the evidence."

A Cabot spokesman said the company's review of the methane data did not find a match to the Marcellus Shale (Laura Legere, Wilkes-Barre [Pa.] Citizens' Voice, Oct. 1). -- PK

## **CLIMATE: Some see a resurgence looming for global warming issues in U.S. politics**

Greenwire

Tuesday, October 02, 2012

Dirk Forrister, president and CEO of the International Emissions Trading Association, which is hosting

the forum, acknowledged during a panel yesterday that climate change has barely figured in this year's presidential campaign, though he said he hoped it would make an appearance at tomorrow night's debate.

"My expectation is that the United States will come back around to this topic," he said.

Public opinion "swings like a pendulum," he said. "And you never trust it when it's too much at one extreme or the other."

Forrister, who chaired the White House Climate Change Task Force during the Clinton administration, shared the stage with Center for Climate and Energy Solutions President Eileen Claussen and California Air Resources Board Chairwoman Mary Nichols, both of whom held top environmental posts in the Clinton administration. Energy Information Administration head Adam Sieminski and former Rep. Phil Sharp (D-Ind.) rounded out the panel.

Claussen said there could be progress toward energy and climate goals in finding compromise across interest groups -- for example, on expanding the sequestration of carbon dioxide for enhanced oil recovery.

"Of course, meeting our long-term energy challenges and achieving a dramatic reduction in CO2 emissions ... will require more comprehensive solutions," she said. Her group still favors a cap-and-trade program, though Claussen acknowledged that such a policy is "off the table" for the foreseeable future.

The idea of a carbon tax has enjoyed a resurgence in interest recently, and Sharp said he saw an opening for possible enactment of one after the election, as Congress scrambles to avoid military and domestic budget cuts that are set to take effect Jan. 1. The next Congress could also draw on a carbon tax as a revenue raiser to help offset other cuts as part of tax reform, he said.

Both of the legislative packages Sharp proposes would require substantial compromise that has been elusive in this Congress, but Sharp said that is not impossible, given the pressure lawmakers will feel to deal with taxes and debt.

"I think congressional constipation is likely to end," he said.

But Forrister struck a more skeptical note, saying that he remembered the Clinton administration's effort to pass a British-thermal-unit tax, "which didn't go all that well." In fact, it was never taken up by the Senate, but several Democratic House members who voted for it lost their seats in 1994, contributing to the Republican takeover of the House.

"I would be curious about the political formula for how a tax emerges that people would actually stand up next to," he said.

Claussen and Sharp said that politicians could explain the vote by pointing to the debt reduced or the taxes cut, not the imposition of a new carbon tax. Claussen characterized the idea as something of a long shot.

"Don't get your hopes up," she said.

EPA facing court challenges

The carbon tax, Duke Energy Corp. Senior Vice President Bill Tyndall joked during an afternoon session yesterday, "combines two really popular ideas to the American public: regulating carbon and imposing a tax."

Polls give conflicting messages about public preferences for controls on carbon.

Duke did support the carbon dioxide cap-and-trade bill that cleared the House in 2009, and Tyndall said EPA might have the authority to craft a greenhouse gas rule for existing power plants that provides utilities with much the same flexibility. He wondered, for example, whether the agency could give utilities compliance credit for investing in renewables and efficiency upgrades or for retiring older, high-emitting plants.

"It may be that there are flexibility provisions that sort of walk and quack like cap and trade that EPA could put in," he said. Such provisions would limit the cost of the rule to utilities and help keep rates down, he said.

While Tyndall emphasized that he is not a Clean Air Act lawyer, he shared the podium with several. William Wehrum, who was acting EPA air chief in the George W. Bush administration and is now a partner at Hunton & Williams, argued that EPA had overstepped its statutory authority in March when

it released a New Source Performance Standard (NSPS) for new power plants that requires coal-fired power plants to bring their emissions down to levels that are only being achieved by natural gas combustion plants.

The rule requires all future power plants to limit their emissions to 1,000 pounds of CO2 emissions per megawatt-hour regardless of fuel source, but there is no demonstrated way for coal-fired power plants to meet that standard, Wehrum said.

The rule provides some additional flexibility to allow plants to phase in carbon capture and storage, but that does not meet the statutory requirement, he said, because CCS has not been sufficiently proved. Wehrum is representing clients who are challenging the proposed rule in court.

"It clearly is in violation of the law because EPA has not shown that it is technologically feasible and cost-effective," he said.

What would a Romney administration do?

Nor is industry alone in using the court system to prod agencies into doing what it wants them to do. Michael Gerrard, director of the Center for Climate Change Law at Columbia Law School, said environmentalists are likely to use litigation to push for more regulation no matter what administration is in charge next year.

If Obama wins in November, he said, one can expect greens to use lawsuits to keep the administration on schedule for reviewing old rules and promulgating new ones. If the victor is Republican presidential candidate Mitt Romney, the focus will turn to keeping the new administration from dismantling Obama's regulatory regime.

But Gerrard told reporters that Romney would have limited ability to roll back landmark greenhouse gas rules. The U.S. District Court for the District of Columbia upheld EPA's greenhouse gas endangerment finding in June, and a Romney administration would have great difficulty, he said, in "finding a persuasive explanation for changing its mind" about the role human emissions play in climate change.

EPA would also have to justify withdrawing rules the Obama administration has already issued, like the vehicle tailpipe emissions rule, which could present a challenge.

"Generally, the courts are skeptical of agencies changing their minds," he said, "especially when there's the appearance of politics underlying the change."

The new administration could slow-walk rules that follow from that endangerment finding but that have not yet been released, he said.

"I think we could see a lot of delays," he said. "Just like after Massachusetts v. EPA in 2007, there was not much discernible activity through the balance of the Bush administration."

In Massachusetts v. EPA, the Supreme Court ruled 5-4 that the agency was obligated to consider regulating greenhouse gas emissions under the Clean Air Act.

'One truth'

But the United Nations' climate chief, who also addressed the forum yesterday, said November's election should make no difference in U.S. carbon policy.

"No matter what the tally is at the end of the day on Nov. 6, there is one truth," Christiana Figueres, executive secretary for the U.N. Framework Convention on Climate Change, told reporters.

"And the truth is that climate is here, it is with us, and that this country is being affected by it as well as the rest of the world, and no matter which administration is sitting in the White House, they need to face them," she said.

The Obama administration has pledged that the United States will cut its emissions 17 percent below 2005 emissions by 2020, but Figueres told the forum that was not enough. At the same time, she appeared to give China and India a pass for statements they have made since last December that hinted they would not be bound by emissions reduction targets until after 2020.

The Durban Platform adopted by U.N. negotiators last year called for an agreement on new reductions by major economies by 2015, taking effect by 2020.

"I honestly do not see any moving away from where Durban left us," Figueres said. "The beauty and the challenge of any text or agreement is that it is always ... creatively ambiguous. That's what allows those agreements to take place."

This year's talks in Doha, Qatar, will help clarify the next steps, she said.